EXHIBIT H

Tammy Kitzmiller, et al. v. Dover Area School District, et al.

Richard Nilsen January 3, 2005

Page 27

Page 28

Pag	je 25
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- A: Three and a half years. [1]
- Q: When you were Assistant Superintendent, did you have
- [3] responsibilities for curriculum as Mr. Baksa does now?
- A: Yes. [4]
- Q: And prior to becoming Assistant Superintendent, what did
- (6) you do?
- A: Director of Curriculum Instruction.
- Q: For Dover area?
- A: No. Big Springs School District. [9]
- Q: How long did you hold that position? [10]
- A: Five years. Five or six. [11]
- Q: And prior to that? (12)
- A: High School Principal, Big Springs School District.
- Q: How long did you hold that position? [14]
- A: Total five years. [15]
- Q: You used the word total. Was it broken up? [16]
- A: Yes. [17]
- Q: Why was that?
- A: I was acting one year, then returned to the Assistant [19]
- [20] Principal's position. I then went to another District
- [21] for three years, then returned for four.
- Q: When you were in the other District, were you also
- [23] Principal?
- A: Yes. [24]
- Q: Prior to taking positions as a Principal or Assistant [25]

A: No. I am sorry. That is over 30 years ago. That is

- [2] all I remember.
- Q: Have you attended any courses or lectures or seminars
- [4] relating to the subjects of evolution, Intelligent
- [5] Design, creation or Creationism?
- A: No. [6]
- Q: How often does the Dover Area School Board meet? (7)
- A: Usually twice a month.
- Q: Do you attend all those meetings [9]
- A: Yes. [10]
- Q: Who keeps the minutes of those meetings? [11]
- A: The secretary. (12)
- Q: How is the secretary position selected? [13]
- A: To clarify, the Board approves a secretary. Our current (141
- [15] secretary of the Board is battling cancer and has not
- [18] been in the District for over a year and a half. We
- [17] have had an Acting Secretary who the Board formally
- [18] approved as Assistant Secretary.
- On one occasion, October 18th, we had an
- [20] additional individual sit in as the Board secretary.
- Q: In place of the Acting Secretary? (21)
- (22)
- Q: Is it the practice of the Board to record the meeting? f231
- A: Yes. [24]
- Q: What is done with those recordings after the meeting is [25]

Page 26

[1] completed?

- A: They are kept until the Board officially approves the
- [3] minutes. After the approval of the minutes, the tapes
- [4] are destroyed.
- Q: Who developed the policy of destroying the tapes after
- [6] the minutes are approved?
- A: Don't know. It happened prior to me.
- Q: Are there any circumstances where the full Board meets
- [9] that is not open to the public?
- A: Yes.
- Q: Is there a name for those kinds of meetings? [11]
- A: Executive session. [12]
- Q: Do you attend those sessions? [13]
- [14]
- Q: What are the let me back up Is it your
- [16] responsibility to attend all the full public Board
- [17] meetings?
- A: Yes. [18]
- Q: What are the circumstances where you will attend an
- [20] executive session meeting?
- A: If requested by the Board to attend. [21]
- Q: Does anyone record what is said in the executive session (22)
- [23] meetings?
- A: No. [24]
 - Q: Who developed the policy of not recording executive

- [1] Principal, were you ever a schoolteacher? A: Yes.
- [2]
- Q: What subjects did you teach? [3]
- A: Social studies. [4]
- Q: How long did you do that? [5]
- A: Five and a half years. [6]
- Q: Where did you get your degree? [7]
- A: Which one? [8]
- Q: What degrees do you have?
- A: I have an undergraduate BA in social studies from Gordon [10]
- [11] College. I have a Master's in Administration from
- [12] Shippensburg University, and I have a doctorate from
- [13] Temple University. So I am actually Dr. Nilsen.
- Q: During any of your college and post graduate education, [14]
- [15] did you take any science courses?
- A: No. Wait a minute. You said undergraduate? [16]
- MR. GILLEN: He did I believe. [17]
- A: Yes. [18]

[19]

- BY MR. ROTHSCHILD:
- Q: Did you take any biology courses? [20]
- A: No. I took a theory of science I believe. [21]
- Q: While you were an undergraduate? [22]
- A: Yes. [23]
- Q: That is the only science subject you can remember taking
- [25] as an undergraduate?

D--- 40

Tammy Kitzmiller, et al. v. Dover Area School District, et al.

Richard Nilsen January 3, 2005

Page 51

	Page 49		Page 51
rn i	is — that was added to the biology curriculum through	[1]	BY MR. ROTHSCHILD:
	the October 18th resolution?	[2]	Q: Have you ever communicated to any newspaper that you
[3]	A: Yes.	[3]	have been misquoted regarding the subject of the biology
[4]	Q: Total discretion?		curriculum?
	A: Total.	[5]	ne ou total Objection relevance
(5) (6)	Q: Am I correct in understanding your testimony that	[6]	A: No.
LZJ [c]	teachers are not required to bring the Pandas book into	[7]	BY MR. ROTHSCHILD:
[8]	their classroom when they teach this unit?	[8]	Q: Have you ever communicated to any newspaper that any
[9]	A: That's correct.	[9]	other individual has been misquoted regarding the
[10]		(10)	biology curriculum?
[10]		[11]	MR. GILLEN: Objection, relevance.
[12]		[12]	A: Sorry. Could you ask that question again?
[13]		(13)	
[14]	experience, you talked about serving as Assistant	[14]	
[15]	Principal, Principal, Assistant Superintendent and		ndividual besides yourself was misquoted or
[16]	a structure de la company school districts	(16)	misrepresented in the reporting about the biology
[17]	. I disselete that you have been an	[17]	g curriculum?
[18]	I winderstook in the subject of Intelligent Design	[18]	
	be part of the curriculum?	[19	
[20]	A 51	[20	many statements have been personal statements and
[21]	or When shows the subject of Creationism?	[21	opinions from the media, community members and Board
[22]	A: Not that I'm aware of.	(22	members which are completely inaccurate or false. That
[23]	Q: If I extend that question to any school district in	[23	
[24]	which you have taught, would your answer be the same?	[24	BY MR. ROTHSCHILD:
[25]	A: Yes.	[25	
	Page 50		Page 52
(1)	Q: What newspapers do you read as a regular matter?	[1	
101	A. The Patriot News and the two York County papers.	[2	2] Q: Are you aware of anybody else involved with the biology

- A: The Patriot News and the two [2] Q: Do you read the two York County papers everyday? [3] A: I read the - I have a secretary pull all related educational articles. Q: Do those clippings include the articles that have been
- written about the biology curriculum issue during 2004? A: Yes. [8] Q: Have you ever asked any newspapers to correct anything
- that has been reported about the biology curriculum? [10]
- MR. GILLEN: Objection, relevance. Answer,
- [12] please. I'm sorry.
- A: I have asked them to read the press release on the [13]
- [14] District web page.
 - BY MR. ROTHSCHILD:
- Q: Other than that, have you ever asked the newspapers to [16]
- correct anything reported about the biology curriculum? [17]
- MR. GILLEN: Same objection. [18]
- A: I don't remember. [19]
- BY MR. ROTHSCHILD: [20]
- Q: Have you ever asked them to retract any item reported [21]
- [22] about the biology curriculum? MR. GILLEN: Objection, relevance.
- [23] A: No. [24]
- [25]

[15]

- [3] curriculum, School District employes or School Board
- [4] members communicating to any newspaper that they have
- [5] been misquoted or their statements misrepresented?
 - MR. GILLEN: Objection, relevance.
- A: I am sorry. Ask that question again. [7]
 - BY MR. ROTHSCHILD:
- Q: Are you aware of anybody else involved with this biology [9]
- [10] curriculum issue, School Board members or employes of
- [11] the School District communicating to the newspapers that
- [12] they misreported something or misqubted them?
- A: Yes. [13]

[8]

[19]

- Q: Who has done that? [14]
- A: Mr. Bonsell and Mr. Buckingham [15]
- Q: What statements reported in the newspaper articles -[16]
- A: I can't speak to that. [17]
- MR. GILLEN: Objection, relevance. (181

BY MR, ROTH\$CHILD:

- Q: How do you know that they communicated that to the [20]
- [21] newspapers?
- A: They individually told me that they had talked to
- [23] reporters about their misstatements and
- [24] misrepresentations.
 - MR. GILLEN: Whose misstatement and

DOVER 12 01 0	
Page 57	Page 59
A: Not that I can remember.	[1] A: (Witness complies.)
Q: Do you remember any other School Board member bringing	[2] Q: In the third paragraph, it says during this past Monday
[3] up the subject of Creationism at any School Board	[3] night's Board meeting, Board members Alan Bonsell, Noel
w meeting?	[4] Wenrich, and Buckingham spoke aggressively in fair of
A. Niet that I can remember.	[5] have a biology book that includes creation as part of
O. 15 years on turn to the next page.	[6] the text.
A. OVier on complies)	Were you aware that the newspaper reported that?
O. D. way see there is a paragraph which begins with the	[8] A: No.
[9] words Assistant Superintendent Michael Baksa?	[9] Q: Do you recall any of those individuals speaking in favor
A 37	[10] of a biology book that includes theories of Creationism
a decrease and a down from that, the article reports	[11] as part of the text?
[11] G. Alid two paragrap	[12] A: No.
[12] that Mr. Baksa said that teachers may make	[13] Q: Could you turn to the article, the June 14th, 2004 York
[13] Creationism in class. Do you are	[14] Daily Record article?
[14] A: ICS.	[15] A: Are these in order?
[15] G: Were you aware the	[16] Q: They are in the chronological order, yes.
[16] MH. GILLEN. Objection,	[17] A: Okay.
11/1	[18] Q: In the second paragraph, it is reported that at Monday's
[18] Q: Were you aware that the market	[19] School Board meeting, William Buckingham said as part of
[19] Statement by Mr. Burner	[20] a search for a new biology book, he and others are
[20] A: I don't remember that, no.	[21] looking for one that offers balance between Christian
[21] Q: Do you know whether Mr. Baksa made that statement?	22 views of creation and Darwin's Theory of Evolution.
A: I don't remember that. [23] Q: Do you remember Mr. Baksa ever making any statements	[23] Were you aware —
[23] Q: Do you remember Mr. Baksa ever making any contents of the partial part	[24] A: That is not June 14th.
	[25] MR. GILLEN: He is looking at the second piece.
[25] A: No, I do not.	Page 6
Page 58	
[1] Q: Would you turn to the next article which is a June 9th,	[1] Turn the page. BY MR. ROTHSCHILD:
[2] 2004 article from the York Daily Record?	(c)
A: (Witness complies.)	[3] Q: Sorry about that.
Q: Do you see at the bottom of the paragraph — it reports	[4] A: There's two 14's.

- [5] Board President Alan Bonsell disagreed saying there were
- [6] only two theories (Creationism and evolution) that could
- [7] possibly be taught. Are you aware —
- MR. GILLEN: Objection, hearsay. (8)

BY MR. ROTHSCHILD:

- Q: Are you aware of the newspaper reporting that statement [10]
- [11] by Mr. Bonsell?

[9]

[23]

- A: I do not remember that, no. [12]
- Q: Do you remember Mr. Bonsell making that statement? [13]
- A: No, I do not.
- Q: Do you remember Mr. Bonsell making any reference to [15]
- [16] Creationism at any time in a Board meeting?
- A: At a Board meeting, I do not remember that, no.
- MR. ROTHSCHILD: Pat, as we go through these [18]
- [19] articles, you can have a standing objection to hearsay.
- [20] I don't agree with it, but you won't have waived it by
- [21] not making it each time.
- MR. GILLEN: Okay. 1221

BY MR. ROTHSCHILD:

- Q: Could you turn to the next article which is a June 10th, [24]
- [25] 2004 article from the York Daily Record?

- Q: Do you see the second paragraph?
- A: Yes.
- Q: Were you aware that the newspaper reported those
- [8] statements by Mr. Buckingham?
- A: No. [9]
- Q: Do you remember Mr. Buckingham making those statements? [10]
- [11]
- Q: Do you have a personal understanding of what is meant by [12]
- [13] the term Creationism?
- A: Yes. [14]
- Q: What is your understanding? [15]
- A: My understanding is creation refers to the Biblical [16]
- [17] account of the origins of life.
- Q: Anything else? [18]
- A: No. [19]
- Q: Do you know that to be a scientific proposition? [20]
- A: I do or do not. I have no comment on that. [21]
- Q: You don't have an understanding? [22]
- [23]
- Q: In the same article two paragraphs down, the paper [24]
- [25] reports that Mr. Buckingham said this country wasn't

60

Page 69

Page 71

1 490 0
[1] prepared that statement?
[2] A: Mr. Baksa in conjunction with Board members and
[3] teachers.
Q: Other than providing the teachers that statement which
[5] they are required to read, have the teachers been given
[6] any other guidance about how to present this unit?
7] A: Yes.
[B] Q: What other guidance?
A: If any student brings up the question of either any
[10] other Creationism or any other origins of life, they
[11] have been directed not to speak to that, but to give
[12] that information and that question directly to either
their parents and/or their own research.
[14] Q: Let me make sure I got that right. If any student
[15] brings up either Creationism or origins of life, they
[16] are directed not to answer, but to instruct the students
[17] to ask their parents or do their own research?
riai A: Yes.
[19] Q: Have the teachers been given any other guidance besides
[20] that directive?

[2] the table in a legal suit. Q: Is that the only reason? A: I believe it is a topic of discussion that should be [5] discussed with parents, not the School District Q: What is it about Intelligent Design which is part of the [7] school's biology curriculum which makes it -MR. GILLEN: Objection, foundation, [9] characterization. BY MR. ROTHSCHILD: [10] Q: What is it about Intelligent Design that makes it a [11] [12] subject appropriate for discussion with parents, but not (13) in the school? A: The school has decided that the curriculum should focus [15] on the Darwinian theory and not focus on other options [16] due to time constraints. Q: Is that the only reason — is time constraints the only [18] reason that the school has decided it should focus on [19] Darwin and not other options? A: We are specifically, as the press release says, a [21] standards driven curriculum and only address the Q: What is the purpose of addressing this section of the [24] curriculum if it is not going to be discussed, not part [25] of the standards?

A: I didn't want to be sitting in a meeting with you across

Page 70

Page 7 A: The purpose is there are individual students that have [2] other opinions beyond the Darwinian. We did not want to [3] be discrimination. We firmly believe that any

[4] individual has a right to their own beliefs. We do not

[5] want to be discriminatory.

We are required to teach Darwin.We are also [6]

[7] required not to be discriminatory.

Q: How do you know that there are individual students that

[9] have other opinions besides Darwin's?

A: I have talked to other students.

Q: Is it your understanding that the individual opinion [11] that these students hold different from Darwin's theory [12]

is Intelligent Design?

MR. GILLEN: Objection, foundation. [14]

A: Could you ask that question, again? [15]

BY MR. ROTHSCHILD: [16]

Q: Is it your understanding that the individual beliefs

[18] that these individuals hold different from Darwin's

[19] theory include Intelligent Design?

A: Some, yes. [20]

Q: When did you become aware that students believed in

[22] Intelligent Design?

A: Since I have been in education. [23]

Q: Mr. Nilsen, didn't you testify that the first time you

became aware of Intelligent Design was July, 2004?

- Q: Sitting around a table? [1]
- A: Yes. [2]

A: No.

(21)

[22]

[23]

[24]

[25]

Q: Who was present for that meeting? (3)

Q: How was that communicated?

Q: Who gave the teachers that directive?

A: Mr. Baksa, myself, the Union President, Bill Miller,

A: November 24th, 1:05, this office, this room.

- [5] Past President, and the Science Department.
- Q: Did you instruct them how they how they were required
- [7] to answer any other kinds of questions by students
- [8] relating to this unit?
- A: They were instructed not to answer any questions dealing
- with the origins of life. Any other questions in
- [11] Darwinian Theory or anything else that is discussed is
- within their own domain.
- Q: Did you give them any instructions about how to answer
- [14] questions about the subject of Intelligent Design?
- A: Yes. [15]
- Q: What instructions were those? [16]
- A: Not to discuss it. Report any student requesting
- [18] that is to immediately go back to either their parents
- [19] or their own research, not a topic of discussion
- Q: Why? (20)
- A: Why was Mr. Miller the past President?
- Q: No. Well done. [22]
- A: I figured at 11:30, you needed it. [23]
- Q: Why did you give the teachers the directive not to
- [25] answer any questions about Intelligent Design?

Tammy Kitzmiller, et al. v. Dover Area School District, et al.

Richard Nilsen January 3, 2005

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g A: No. Big Springs School District.	[9] Q: Do you attend all those meetings?
[10] Q: How long did you hold that position?	[10] A: Yes.
[11] A: Five years. Five or six.	[11] Q: Who keeps the minutes of those meetings?
[12] Q: And prior to that?	[12] A: The secretary.
[13] A: High School Principal, Big Springs School District.	[13] Q: How is the secretary position selected?
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[24] A: Yes.	[24] A. Yes.
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[5] Q: How long did you do that?)
6 A: Five and a half years.	- 1
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[11] College. I have a Master's in Administration from	
[12] Shippensburg University, and I have a doctorate from	
[13] Temple University. So I am actually Dr. Nilsen.	
[14] Q: During any of your college and post graduate educ	ation,
[15] did you take any science courses?	
[16] A: No. Wait a minute. You said undergraduate?	
MR. GILLEN: He did I believe.	
[18] A: Yes.	
[19] BY MR. ROTHSCHILD:	
[20] Q: Did you take any biology courses?	
[21] A: No. I took a theory of science I believe.	
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[23] A: Yes.	
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[6] 1	the minutes are approved?	
[7]	A: Don't know. It happened prior to	me.
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[9]	that is not open to the public?	
[10]	A: Yes.	•
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Page 49

Tammy Kitzmiller, et al. v. Dover Area School District, et al.

Richard Nilsen January 3, 2005

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[8] their classroom when they teach this unit?	[8] Q: Have you ever communicated to any newspaper that any
[9] A: That's correct.	(B) other individual has been misquoted regarding the
[10] Q: Is anybody else besides teachers allowed to take those	[10] biology curriculum?
[11] textbooks, the Pandas textbooks out of the library?	[11] MR. GILLEN: Objection, relevance.
[12] A: Students.	[12] A: Sorry. Could you ask that question again?
[13] Q: Mr. Nilsen, when I asked you about your prior	[13] BY MR. ROTHSCHILD:
[14] experience, you talked about serving as Assistant	[14] Q: Have you ever communicated to any newspaper that any
[15] Principal, Principal, Assistant Superintendent and	[15] individual besides yourself was misquoted or
[16] Superintendent in various school districts.	[16] misrepresented in the reporting about the biology
[17] In any school districts that you have been an	[17] curriculum?
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Page 57

A: (Witness complies.)

Tammy Kitzmiller, et al. v. Dover Area School District, et al.

A: Not that I can remember.

[1]

Richard Nilsen January 3, 2005

Page 59

Q: Do you remember any other School Board member bringing Q: In the third paragraph, it says during this past Monday [3] up the subject of Creationism at any School Board [3] night's Board meeting, Board members Alah Bonsell, Noel [4] Wenrich, and Buckingham spoke aggressively in fair of (4) meeting? [5] have a biology book that includes creation as part of A: Not that I can remember. Q: If you can turn to the next page. in the text. Were you aware that the newspaper reported that? A: (Witness complies.) 71 Q: Do you see there is a paragraph which begins with the A: No. Q: Do you recall any of those individuals speaking in favor [9] words Assistant Superintendent Michael Baksa? [10] of a biology book that includes theories of Creationism [10] Q: And two paragraphs down from that, the article reports [11] as part of the text? [11] [12] that Mr. Baksa said that teachers may make reference to A: No. [12] Q: Could you turn to the article, the June 14th, 2004 York [13] Creationism in class. Do you see that? [13] [14] Daily Record article? A: Yes. [14] A: Are these in order? Q: Were you aware that -[15] Q: They are in the chronological order, yes. [16] MR. GILLEN: Objection, hearsay. [16] BY MR. ROTHSCHILD: A: Okay. [17] Q: In the second paragraph, it is reported that at Monday's Q: Were you aware that the newspaper reported that [18] [19] School Board meeting, William Buckingham said as part of [19] statement by Mr. Baksa? [20] a search for a new biology book, he and others are A: I don't remember that, no. (201 [21] looking for one that offers balance between Christian Q: Do you know whether Mr. Baksa made that statement? [21] views of creation and Darwin's Theory of Evolution. A: I don't remember that. Q: Do you remember Mr. Baksa ever making any statements Were you aware -[24] about teachers making reference to Creationism in class? A: That is not June 14th. [24] MR. GILLEN: He is looking at the second piece. A: No, I do not. Page 60 Page 58 Q: Would you turn to the next article which is a June 9th, [1] Turn the page. [1] BY MR. ROTHSCHILD: [2] 2004 article from the York Daily Record? Q: Sorry about that. A: (Witness complies.) [3] Q: Do you see at the bottom of the paragraph — it reports A: There's two 14's. [5] Board President Alan Bonsell disagreed saying there were Q: Do you see the second paragraph? 151 [6] only two theories (Creationism and evolution) that could [6] A: Yes. Q: Were you aware that the newspaper reported those [7] possibly be taught. Are you aware — 171 [8] statements by Mr. Buckingham? MR. GILLEN: Objection, hearsay. BY MR. ROTHSCHILD: A: No. [9] [9] Q: Do you remember Mr. Buckingham making those statements? Q: Are you aware of the newspaper reporting that statement [10] [11] [11] by Mr. Bonsell? Q: Do you have a personal understanding of what is meant by A: I do not remember that, no. [12] [12] e term Creationism? Q: Do you remember Mr. Bonsell making that statement? [13] A: Yes. [14] A: No. I do not. [14] Q: Do you remember Mr. Bonsell making any reference to Q: What is your understanding? [15] A: My understanding is creation refers to the Biblical [16] Creationism at any time in a Board meeting? A: At a Board meeting, I do not remember that, no. count of the origins of life. MR. ROTHSCHILD: Pat, as we go through these Q: Anything else? [18] (181 [19] articles, you can have a standing objection to hearsay. A: 100? [19] Q: Do you know that to be a scientific proposition? [20] I don't agree with it, but you won't have waived it by [20] A: I do or do not. I have no comment on that. [21] not making it each time. 1211 Q: You don't have an understanding [22] MR. GILLEN: Okay. (221 BY MR. ROTHSCHILD: (23) [23] Q: In the same article two paragraphs down, the paper Q: Could you turn to the next article which is a June 10th, (241 [25] reports that Mr. Buckingham said this country wasn't [25] 2004 article from the York Daily Record?

Richard Nilsen January 3, 2005

Tammy Kitzmiller, et al. v. Dover Area School District, et al.

inuary 5, 2005	
Page 69	Page 71
	(1) A: I didn't want to be sitting in a meeting with you across
A: Mr. Baksa in conjunction with Board members and	[2] the table in a legal suit.
And the second of the second o	[3] Q: Is that the only reason?
Q: Other than providing the teachers that statement which	[4] A: I believe it is a topic of discussion that should be
	[5] discussed with parents, not the School District.
the state about how to present this unit?	[6] Q: What is it about Intelligent Design which is part of the
1/2/10/10 10 10 10 10 10 10 10 10 10 10 10 10 1	7] school's biology curriculum which makes it —
a water anidonce?	[8] MR. GILLEN: Objection, foundation,
A 15 endeat brings up the question of either any	p characterization.
or only other origins of life they	BY MR. ROTHSCHILD:
	[11] Q: What is it about Intelligent Design that makes it a
the transfer of the transfer directly to either	[12] subject appropriate for discussion with parents, but not
Alexander over research	in the school?
o transfer cure I got that right If any student	A: The school has decided that the curriculum should focus
g: Let me make sine I got that I got they	15] on the Darwinian theory and not focus on other options
but to instruct the students	[16] due to time constraints.
are directed not to and	[17] Q: Is that the only reason — is time constraints the only
// to ask their parents of do and	[18] reason that the school has decided it should focus on
	[19] Darwin and not other options?
	[20] A: We are specifically, as the press release says, 2
of that directive?	[21] standards driven curriculum and only address the
1) A: No.	[22] standards.
2) Q: Who gave the teachers that directive?	[23] Q: What is the purpose of addressing this section of the
a) A: Me. (4) Q: How was that communicated?	[24] curriculum if it is not going to be discussed, not part
A Name to 24th 1:05 this office this room.	25] of the standards?
	Page 72
Page 70	[1] A: The purpose is there are individual students that have
(1) Q: Sitting around a table?	context opinions beyond the Darwinian. We did not want to
[2] A: Yes.	[3] be discrimination. We firmly believe that any
[3] Q: Who was present for that meeting?	[4] individual has a right to their own beliefs. We do not
A: Mr. Baksa, myself, the Union President, Bill Miller,	[5] want to be discriminatory.
	[6] We are required to teach Darwin. We are also
[6] Q: Did you instruct the intervence of cuestions by students	77 required not to be discriminatory.
77 to answer any other kinds of questions by students	(8) Q: How do you know that there are individual students that
(8) relating to this upit? (9) A: They were instructed not to answer any questions dealing	191 have other opinions besides Darwin's?
(10) with the origins of life. Any other questions in	A: I have talked to other students.
[10] Darwinian Theory or anything else that is discussed is	(11) Q: Is it your understanding that the individual opinion
(12) within their own domain.	that these students hold different from Darwin's theory
a site of them any instructions about how to answer	[13] is Intelligent Design?
[13] G: Did you give them any module to the	MR. GILLEN: Objection, foundation.
was exercises about the subject of Intelligent Design?	
questions about the subject of Intelligent Design?	A: Could you ask that question, again?
(14) questions about the subject of Intelligent Design? (15) A: Yes.	[15] A: Could you ask that question, again? BY MP. ROTHSCHILD:
(14) questions about the subject of Intelligent Design? (15) A: Yes. (16) Q: What instructions were those?	[15] A: Could you ask that question, again? [16] BY MP. ROTHSCHILD: [17] Q: Is it your understanding that the individual beliefs
 questions about the subject of Intelligent Design? A: Yes. Q: What instructions were those? A: Not to discuss it. Report — any student requesting 	A: Could you ask that question, again? BY MR. ROTHSCHILD: 177 Q: Is it your understanding that the individual beliefs [18] that these individuals hold different from Da win's
 [14] questions about the subject of Intelligent Design? [15] A: Yes. [16] Q: What instructions were those? [17] A: Not to discuss it. Report — any student requesting [18] that is to immediately go back to either their parents 	A: Could you ask that question, again? BY MR. ROTHSCHILD: [17] Q: Is it your understanding that the individual beliefs
 [14] questions about the subject of Intelligent Design? [15] A: Yes. [16] Q: What instructions were those? [17] A: Not to discuss it. Report — any student requesting [18] that is to immediately go back to either their parents [19] or their own research, not a topic of discussion. 	A: Could you ask that question, again? BY MR. ROTHSCHILD: [17] Q: Is it your understanding that the individual beliefs [18] that these individuals hold different from Darwin's [19] theory include Intelligent Design? [20] A: Some, yes.
[14] questions about the subject of Intelligent Design? [15] A: Yes. [16] Q: What instructions were those? [17] A: Not to discuss it. Report — any student requesting [18] that is to immediately go back to either their parents [19] or their own research, not a topic of discussion. [20] Q: Why?	[15] A: Could you ask that question, again? [16] BY MR. ROTHSCHILD: [17] Q: Is it your understanding that the individual beliefs [18] that these individuals hold different from Darwin's [19] theory include Intelligent Design?
[14] questions about the subject of Intelligent Design? [15] A: Yes. [16] Q: What instructions were those? [17] A: Not to discuss it. Report — any student requesting [18] that is to immediately go back to either their parents [19] or their own research, not a topic of discussion. [20] Q: Why? [21] A: Why was Mr. Miller the past President?	A: Could you ask that question, again? BY MR. ROTHSCHILD: To G: Is it your understanding that the individual beliefs that these individuals hold different from Darwin's theory include Intelligent Design? A: Some, yes. C: When did you become aware that students believed in Total Could you ask that question, again?
(14) questions about the subject of Intelligent Design? (15) A: Yes. (16) Q: What instructions were those? (17) A: Not to discuss it. Report — any student requesting that is to immediately go back to either their parents (19) or their own research, not a topic of discussion. (20) Q: Why? (21) A: Why was Mr. Miller the past President? (22) Q: No. Well done.	15 A: Could you ask that question, again? BY MR. ROTHSCHILD: 17 Q: Is it your understanding that the individual beliefs 18 that these individuals hold different from Darwin's 19 theory include Intelligent Design? 20 A: Some, yes. 21 Q: When did you become aware that students believed in 122 Intelligent Design? 123 A: Since I have been in education.
(14) questions about the subject of Intelligent Design? (15) A: Yes. (16) Q: What instructions were those? (17) A: Not to discuss it. Report — any student requesting that is to immediately go back to either their parents (19) or their own research, not a topic of discussion (20) Q: Why? (21) A: Why was Mr. Miller the past President?	15 A: Could you ask that question, again? BY MR. ROTHSCHILD: 17 Q: Is it your understanding that the individual beliefs 18 that these individuals hold different from Darwin's 19 theory include Intelligent Design? 120 A: Some, yes. 121 Q: When did you become aware that students believed in 122 Intelligent Design?

00010 Were you at that School Board meeting 00009 correct, three of the districts -- or I am sorry --2 A. Yes. three of the schools and which biology books they were 2 3 Q. Do you recall the discussion about biology textinguis in the high school? 4 Q. What was your role in 2004 in the work of the curriculum 5 A I remember the discussion, the specifics. I am not sure committee's to select or recommend, rather, new I remember all of them textbooks in the School District? 7 Q What do you remember of the discussion? 7 A. My role as Superintendent were to place the book that 8 A | | remember that Mr. Buckingham had some concerns about Mr. Baksa as Director of Curriculum Instruction -- to the textbook and was interested in looking at other place his recommendation on the Board agenda. 10 Q. It sounds like your role is passive. You simply take 11 Q. What do you recall he said about his concerns about the whatever Baksa gives you and put it on the agenda textbook? 12 without making any judgments about whether it is an 13 A. 1 believe he communicated his dissatisfaction with how appropriate recommendation; am I right about that? the Darwinian Theory of Evolution was presented in the 14 A. Passive to the extent of where Mr. Baksa in his capacity book 15 makes the recommendation. In this case and in most 16 Q. Was his dissatisfaction with how the Darwinian Theory cases, his recommendation has been put on where I have was presented, or was his dissatisfaction with the not questioned his recommendation beyond the fact that 17 absence of any other theory being presented? did he follow procedure. And when he communicated to me 19 A. My only recollection is how the Darwinian Theory was he did, it was placed on the agenda. 20 20 Q. Mr. Baksa described some of the work that he did with 21 O What did he say about his dissatisfaction? the curriculum committees in the summer of 2004. 1 22 A. He documented - and again the documentation I believe believe from his testimony that this inquiry to the on have - of speas of concern about how evolution was . parochial schools followed a June meeting of the School being presented in the book. Beyond that, I don't District Board when the biology textbook issue was recollect what was specifically stated and/or written Richard Nilsen 4/14/05 (Day 2) Richard Nilsen 4/14/05 (Day 2) Page 9 00012 he needed to consider? I Q. Did you make any notes yourself of the discussion of the 2 A. I think he needed to consider answering whatever biology textbook at that June Board meeting? concerns Mr. Buckingham and/or any other Board member had with the present recommended book Miller and Levin 4 Q. Do you have a practice of making notes during Board meetings" 6 Q. I understand that. But what did you think his options were? You referred - and I am using the word options 7 O. What do you do with those notes? You referred to he needed to decide what direction he 8 A. All the notes I take are actions the Board has requested was going to go in. That suggests to me that there me to do and/or any changes in future agenda items. were - there was more than one direction available to Once those items have been completed, those notes are What did you have in mind when you had that 12 Q. Did you make notes of the discussion of the biology textbook at the June meeting? 14 A. I don't recommend - my apologies. I don't recollect the full conversation, but obviously, there would be 15 Q. Did you have any conversation with Mr. Baksa after that two. One would be to continue the conversation on the meeting about the actions that should follow in current book. Or two, look for other options that connection with Mr. Buckingham's concerns or any other possibly anybody and everybody would be satisfied with discussion that happened at that June meeting? 18 19 Q. Did you give him any suggestions for how to find out more about other options than simply persisting with the 20 O. What was that discussion with Baksa? Miller and Levin book? 21 A. My discussion with Mr. Baksa was he had to decide what 22 A. Again, I don't remember any specific. It would not be

> Richard Nilsen 4/14/05 (Day 2) Page 12

out of character for me to tell him to call and make

he knows of to see if there would have been another

sure he has contacted every other district and everyone

Page 10

direction he was going to go with as it related to the

24 Q At that time, I mean at the time of your discussion with

Mr. Baksa, what did you think the directions were that

textbook and when the textbook decision was to be made

00018

also talked to Mr. Baksa about the health curriculum in 00017 1 A. I will clarify your question. The family consumer 2 our education dealing with abstinence. 2 science book was content issue based on the fact that I know Mr. Baksa is meeting next week, if not the they thought the content was already in our curriculum following week, with another Board member dealing with and didn't see the reason to purchase another book that our drug and alcohol curriculum, specifically where had the same content. 6 inhalants are being taught. 6 Q. Okay If your question is does the Board hold 7 A. Not specifically along the same lines, but along the discussions on multiple issues with content beyond this 8 same general conversation. The District gets a donation individual issue, my experience is yes. from the county on a book pamphlet that we give to our 10 Q. On those issues where the Board has either demonstrated 10 students that has a number of agencies listed in it, and 11 or expressed a keen interest in a decision like the 11 a Board member and a parent had a considerable concern distribution of a pamphlet, or the selection of a 12 on the information that was in the book, specifically textbook, is it your practice as Mr. Baksa's supervisor 13 dealing with comments dealing with sexual education and and as the Superintendent of Schools to basically say we issues concerning specific agencies that was in there. have got to pay attention to this, get it right, be sure To the point of where we ended up sending home that we do what we need to do to be giving all the information prior to the students receiving the books, information to the Board and do the best job we can? 17 as well as a discussion of whether to even continue You don't treat it as a routine matter; do you? 18 handing out the individual books. MR. GILLEN: I object to the form. And through my experience, not only in this 20 A. I think it is a routine matter. I think the routine district, but other districts, any time we have adopted 21 matter of the Board's reviewing curriculum and making 21 a health curriculum, there has always been conversations 22 comments about curriculum is routine. Board members 22 zeroing in on what is and what is not taught as it 23 historically have had conversations about what is in the 23 relates to the curriculum. 24 curriculum, and their recommendations on what should be Mr. Bonsell and I had conversations and I believe in the curriculum, and what type of curriculum should be 25 a third party, but nonetheless I believe Mr. Bonsell has

Richard Nilsen 4/14/05 (Day 2)

Page 17

Richard Nilsen 4/14/05 (Day 2)

Page 18

placed in our planned courses. That is a routine

2 matter.

3 BY MR. SCHMIDT

4 Q. At the time of the June meeting in 2004, had you ever

5 heard of the notion of Intelligent Design?

6 A. Not that I can remember, no

7 Q. Do you remember your first contact with the Discovery

8 Institute? And by you in this case, I am referring to

9 you personally

10 A. Me personally, yes.

11 Q. When did that contact take place?

12 A. The fall of 2004.

13 Q Where did the contact take place?

14 A Over the phone.

15 Q. Who else was involved in the telephone contact?

16 A No one else.

17 Q. That wasn't meant to be a trick question. You were on

18 the phone. Who else was on the phone; somebody from the

19 Discovery Institute?

20 A. Yes.

21 Q. Do you remember who it was?

22 A. No, I don't.

23 O Do you know someone named Seth Cooper?

25 Q. There is a deposition exhibit that has previously been

marked as Plaintiff 38 which I would ask you to take a

look at?

3 A. (Witness complies.)

MR. GILLEN: Tom, I mentioned to Eric yesterday

that 40, I have a problem with in that I am not sure if

it wasn't inadvertently provided. I need to go back to

the office and check on that.

MR. SCHMIDT: Okay.

MR. GILLEN: Thank you.

10 BY MR. SCHMIDT:

11 O. Dr. Nilsen, have you seen this document before today?

12 A. I have reviewed over 2,000 documents. Does this jump

13 out at me? No. Would I have reviewed it before? I

15 Q. Do you recall seeing this e-mail at about the time it

16 was sent in June of 2004?

17 A. Not to my recollection, no.

18 Q. Were you aware in June of 2004 that Seth Cooper or

19 anyone from the Discovery Institute was reaching out and

20 trying to contact Mr. Bonsell?

21 A. Not to my recollection, no.

22 Q. If you would, look at the e-mail address at the top of

23 Plaintiffs 38. Is the e-mail address for Mr. Bonsell

24 one that is provided by the School District?

25 A. Yes.

Page 20 Richard Nilsen 4/14/05 (Day 2) Richard Nilsen 4/14/05 (Day 2) Page 19

00049 I Q. The sentence reads the School Board has noted that there that teachers were not to teach Intelligent Design? are opinions other than Darwin's on the origin of 2 A. I am sorry. I don't understand that. life -- end of quote. 3 Q. Okay. Why weren't the teachers to teach Intelligent Do you know what Darwin's opinions on the origin 5 A Based on the fact that it is not one of the standards 6 Q. My reading of the curriculum documents tells me that the 7 Q. Did you make any inquiry about what the Board had in amount of time devoted to Evolution is 19 days? mind when it said there are other opinions? 9 A. No. But my context was some Board members differed with 9 C How much time is devoted to Evolution? Darwin's concept of origins of life and communicated 10 A One to two days such publicly. 11 Q What is the origin of life debate that is referred to in 12 Q. Why did you capitalize origin of life in these 12 the next sentence of Exhibit P-3? 13 A The origins of life debate is the origin of the creation or beginning, the genesis, if you would not using 15 Q. Are you aware of any opinions other than Darwin's Biblical references, but the beginning part of man 16 opinion on the origin of life, whatever that may be? 16 Q Qf mar/ 17 A Yes 18 Q What are the other opinions that you are aware of? 18 Q. What is Darwin's opinion about the origin of life as you 19 A. There is the opinion - and I have no idea how to spell understand it? I am now looking at the next sentence. 20 it -- Plantaria. whatever it is, where there are aliens 20 A. I don't know 21 that have come in some capacity. The whole conversation 21 Q. What did you mean when you put that sentence in the 22 dealing with the pyramids and the structure that the 22 23 earth was created by an outside force, whatever that --23 A. The Board believes that there are other options and 24 either alien as defined as an entity beyond homo sapiens discussions on Darwin's opinion on the origins of life. and I have communicated that

Richard Nilsen 4/14/05 (Day 2)

Page 49

Richard Nilsen 4/14/05 (Day 2)

Page 50

0005	l

There is the Big Bang Theory of where the

2 beginning of time was created out of an explosion in

3 some capacity. And there is also the conversation that

4 there is a Godlike entity that created earth and

5 everything on it.

6 MR. SCHMIDT: Off the record, please.

(An off-the-record discussion was had.)

8 (Plaintiffs Exhibit 43 was marked.)

9 BY MR. SCHMIDT:

10 Q. Dr. Nilsen, have you had an opportunity to review

11 Plaintiffs Exhibit 43?

12 A. Yes, I have.

13 Q. Identify the document, please.

14 A. The document is Administrator's Biology Statement in

15 Biology Class.

16 Q. Bates numbered 10991100. Do you know who prepared this

17 document?

18 A. Yes

19 Q. Who?

20 A. I did

21 Q. What use was made of the document?

22 A. The document was read in total by either myself or Mr.

23 Baksa

24 Q. Verbatim?

25 A. 99.9 percent.

0005

1 Q. Was it the plan to stick --

2 A. As close as possible.

3 Q. Paragraph five on page two of the document includes a

4 statement that there will be no other discussion of the

5 issue and your teachers will not answer any questions on

6 this issue.

7 What is this issue that is referred to in that

8 paragraph?

9 A. The issue of Intelligent Design.

10 Q. When you prepared what has been marked as P-43, what was

your understanding of the difference between the

12 Intelligent Design explanation of the origin of life and

13 Darwin's explanation of the origin of life?

14 A. When I prepared the document?

15 Q. Right.

16 A. At that time, I don't think I had an understanding.

17 Q. Do you recall when you prepared the document?

IR A Vec

19 Q. When

20 A. It would have been in mid January.

21 Q. Do you have an understanding now?

22 A. I have somewhat of an understanding. I don't think I

23 have a total understanding.

24 Q. I can't ask for perfection, but what is your present

25 understanding?

Richard Nilsen 4/14/05 (Day 2)

Political affiliation, sexual education, issues within Intelligent Design refers to an order Darwin refers to the community that are highly politically charged 2 3 Q And religion? 3 Q And how do those two notions that you have just stated 4 A. And religion have to do with the origin of life? 5. Q. Did any parents or students ever contact you after the 5. A. As it relates to Darwin, there could be a randomness. 1 6 statement was read? think his theory is survival of the fittest. And 7 A Northard temember no Intelligent Design has a specific design to it, not a 8 Q I am going to show you a document that has been marked previously as Plaintiffs 9. Have you had an opportunity 9 O I think I took that from the order versus random. But what do those two notions have to do with what you have 10 11 A Look at it. Read it in total, no used the phrase and it is used in this document the 12. O Let me ask you some questions. If you need to review it origin of life, do you have any understanding of the in any detail just let me know. This is a document relationship between the two concepts you have referred that contains Bates numbered pages 944 through 951 Let to and the origin of life? me ask you to turn first to page 946 Not be ond what I have said, no 16 A. (Witness complies) 16 Q You have been an educator for going on 20 years? 17 O Do you recognize this document" 18 Q Twenty nine years. Can you recall any instance in your 19 Q. Is this the Biology One Curriculum that was in place career as an educator when students have been directed before October 18th, 2004" that they are not to discuss topics, and teachers are 21 A. To the best of my ability, yes not permitted to comment on topics with students? 21 22 Q. I need your help to understand it. As I read this MR GILLEN Object to the form 22 23 document, it suggested to me that there were 19 days out 23 A. Yes of the biology curriculum devoted to natural selection. 24 BY MR SCHMIDT the mechanism of Evolution and the origins of bio 25 Q. Can you give me another circumstance besides this one?

Page 53 Richard Nilsen 4/14/05 (Day 2)

Richard Nilsen 4/14/05 (Day 2)

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diversity. Have I read the top line correctly?
2 A That's correct
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3 O. And it appears, for instance, that the references to

4 Darwin, Darwin's Theory of the origin of species and

issues involving Evolution are spread throughout this 19

7 A. That is what is written here, correct.

8 Q. As I understood your testimony a few moments ago, it was

the Theory of Evolution was limited to two days in the

biology curriculum. Did I mishear your testimony?

12 Q Can you explain why you say two days and this appears to

13 Say 191

14 A. The uglmess that every Superintendent and Assistant

15 Superintendent has is the fact that teachers teach not

solely the outline of the planned instruction. This 16

17

Because when asking the specific teachers how many 18

days they spend on the theory, they said two. So I am

following what they have told us is the reality versus

what is in the planned course. Meaning this document is 21

obviously the instructional guide, but not what is in

24 C As Superintendent, are you concerned that the guide's

call for 19 days of instruction and your teachers are

Page 54

00056

telling you they are only devoting two?

2 A. 1 think you noted my introductory comment of the

neliness of it, and the answer is ves. Whether the

nlamed course is misdone or the instruction is misdone.

I can't speak to that. But obviously, both should be

7 Q. Back to page 944, have you seen this memorandum before

today, the memorandum from Trudy Peterman to Mr. Baksa

Mr. Redding and Mrs. Spahr dated April 1, 2003?

II Q I am assuming you saw it in the course of preparing

documents for discovery in this case, but did you see it

about the time it was issued?

14 A. I have no recollection of that except to say that it is

carbon copied to me, and I would expect within my

responsibilities that I would have come across it.

17 Q Woods you have read it?

19 Q. Do you recall doing anything in response to or following

receipt of this memorandum?

22. Q. You don't recall any discussions with Mr. Baksa or Mrs.

24 A. No. Let me rephrase that. About this specific memo

Page 56 Richard Nilsen 4/14/05 (Da 2) Richard Nilsen 4/14/05 (Day 2) Page 55

00062 the other point based on the fact that I have not an understanding of what Dr. Peterman did and what Mr. 2 2 (Why sof? 3 A. Two seasons Cale is the Superintendent doesn't have Bakes did with the individual teacher. 4 Q. Did you ask Dr. Peterman what she did in her supervision direct supervision in the evaluation of teachers. Those of Mrs. Spahr about this subject? are the individual responsibilities of the building 6 A. No, not this subject, no. 7 Q Is it your position as the Superintendent that when And secondly, this conversational capacity would somebody that you are evaluating repeats the statement end up being between the conversation of Mr. Bakra, Dr. Peterman and her eventual responsibilities of of another person, if that statement turns out to be untrue, that the person you supervise bears the evaluation. responsibility for that untruth? 11 11 Q I misunderstood that answer Let me withdraw the question. It's too big. 1 12 12 A. Messing if Mrs. Spain is misquoting Mr. Baksa, it would have already got your answer on it. I understand what 13 be Mr. Bakes's responsibility to communicate to Dr. Peterman of the misquotation. MR. GILLEN. Thank you, Tom. 15 15 Q. Do you know whether he did that or not? 16 BY MR. SCHMIDT: 16 A. No. I do not know that. 17 Q. Did you have any further discussion with Mr. Baksa about 17 Q. As I understand what happened in response to the two the subject of his reported conversation with Mrs. Spahr sentences that appear at the beginning of -- I am sorry on the topics that are addressed in this memorandum? - three sentences that appear at the beginning of this 19 exhibit, Dr. Peterman is disciplined for having made a 20 21 Q. When did you have that conversation with him? statement that she heard from Mrs. Spahr, but Mrs. Spahr 21 22 A. Over the past year. is not disciplined for having made the original 22 23 Q. Did you have a conversation with him around the time statement which you and Mr. Baksa think is untrue? 23 that this memorandum was issued in April of '03? MR. GILLEN: Object to the form. 25 A. In a general sense, yes. As it relates to specifics, 25 A. I can speak to the first which is yes. I can't speak to

Richard Nilsen 4/14/05 (Day 2)

Page 61

Richard Nilsen 4/14/05 (Day 1)

Page 62

2 Q How did you reach the determination to give Dr. Peterman 3 a bad evaluation because of what appears in this first paragraph without doing an investigation --MR. GILLEN: Object to the form. 6 BY MR SCHMIDT: 7 O -- with Mr. Baksa? MR GILLEN: Lam sorry. MR. SCHMIDT: That is all right. I paused 10 A. The evaluation was not solely based on this individual 11 action. It was significantly broader obviously than 12 this. And the behavior reflected not solely the information, but the process of the information 14 BY MR. SCHMIDT 15 Q. Did you ever instruct Dr. Peterman about how she was to behave or interact with the Board at Board meetings? 17 A Yes 18 O. What instructions did you give her? 19 A. The Board directed me to direct to her that when she 20 came to Board meetings, that she like every other individual was to be recognized prior to coming to the 21

22 podium, was to direct her comments to the Board and not

She was also not to raise her voice. She was also

not to pound the podium. And she was to be or point,

the constituents

23

24

```
4 Q. Is that the current state of her instructions with
     respect to Board meetings?
6 A. She is no longer employed.
7 O. Was she fired?
8 A. No. She has since gone to another district where she is
      in litigation with the Superintendent because the
      Superintendent put her on leave, as the prior district
      also put her on leave. So out of three districts, two
      out of the three, she was put on leave for behavior
       unbecoming to an administrator.
14 Q. I would like to show you a document that has previously
      been marked as Plaintiffs 28. I just have a quick
      question or two about this.
           Dr. Nilsen, at least initially, you can probably
17
      answer my question by looking at the first page. If
      someone else has already asked this, I apologize to you
           But is this your handwriting on this document?
22 Q. Do you know whose it is?
23 A. Without certainty. But it does look like Mr Baksa's.
24 It is neater than mine.
           MR. GILLEN: Off the record.
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not wander off a point

2 Q. Did you give her those directions in writing?

Richard Nilsen 4/14/05 (Day 2)

I can't speak for the Board except to say that comment activistic stand against what the Supreme Court had is a reflection of what the teachers said they were 2 already done. There was a conversation we had about 3 what was currently being discussed in the national 4 Q Okay, That might be part of where Lam getting lost. paper, as well as what impact the Board - I am sorry --What comment is a reflection of what the teachers said what impact the Supreme Court had directly on schools they are doing? 6 Q. Okay. Let me just go back to explain one line of 7 A Origins of life is not taught. testimony you gave earlier this morning. I had asked Teachers say we're not teaching origins of life; is that you a couple of questions about the origin of life what you are saving? debate and what your understanding is of origin of life. 10 A. Yes As I reflect back on your testimony, I am not sure 10 11 Q. And when the teachers say we are not teaching origins of I understand what you mean when you refer in the life, what do you understand them to be saying? documents you have written and what you are 13 A. They are not seaching atoms evolution. understanding is about the policy of the Board when it 14 Q. What do you mean by macro evolution refers to origin of life 15 A The Big Bung Theory, the jumping from species to species If you will bear with me for a minute, could you piece of Darwinian Theory explain it again? 17 Q. And is it your understanding as the Superintendent of 17 A. My apologies, but I think you asked three different the Dover Area School District that when the Board adopted its amended or revised carriculum, it was 19 Q. I am sure I did. That is the topic If you would, tell seflecting that understanding of what the teachers were 20 me again what your understanding is, Dr. Nilsen's 21 understanding is of the term origin of life? 21 22 A Yes 22 A The beginning of mankind. MR. SCHMIDT: All right. That is all I have. 23 Q. is at your anderstanding that that is what the Board 23 Thank you. I appreciate your staying through lunch to meant when it included that term in its revised biology get this completed. curriculum? 25

Richard Nilsen 4/14/05 (Day 2)

Page 93

Richard Nilsen 4/14/05 (Day 2

Page 94

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00095
            MR GILLEN: I just have a few questions, 1 om
  2 BY MR. GILLEN:
  3 Q. Mr. Schmidt asked you a few questions. One set of them
        related to Plaintiffs Deposition Exhibit 9 which is that
        memo from Dr. Peterman. Tom asked you did you take
         action in light of that, and you said no.
            Just to be clear on this point, at the time that
         you received this memo, did Dr. Peterman have a lot of
  10 A.
           Was it in large measure because this memo came from Dr.
  11.0
          Peterman which explained your inaction?
  12
  13 A.
          discussing either from the administrative standpoint, or
  14
          the Board standpoint, or Mr. Baksa's standpoint, or my
  15
          standpoint any discussion of Creationism. So a memo
   16
          that generated and stated that there was a discussion of
   17
          Creationism had absolutely a non starter
   18
             Secondly, as it related to Dr. Peterman, I didn't
   19
          believe anything she put in writing anyway. In fact.
   20
          one of the prior evaluations I had with her was to stop
   21
          putting things in writing because she would put things
   22
          in writing prior to knowing what actually was the
   23
          reality. And I had to spend time with her going back
          and correcting what was on the record.
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00096
            She had a long history of putting things in
        writing that were inaccurate that we had to go back and
  2
        correct
            She had dictated to the faculty that she no longer
         would talk to any faculty members, and that the only way
         she would communicate with faculty members is through
         Department Chairs. And the only way that Department
         Chairs could talk to her is if they requested a meeting.
            And then in the middle of that year '03-'04, she
         communicated the Department Chair, she would no longer
  10
         talk to them. So she generated information that was
  12
          totally inaccurate in memo format.
             So her credibility with me in any written forma
  13
          was absolutely nonexistent. And eventually, it was
          reflected in the end of the year evaluations
  15
  16 O. Tom also directed your attention to Plaintiff Exhibit
          48. When I tooked at it here today, I noticed that it
  17
  18
          said any future communication pertaining to
          Creationism/Intelligent Design intended for the Science
   19
  20
          Department shall be in written form.
             Is it accurate that the teachers when they
  21
          discussed Intelligent Design equated it with Creationism
  22
          in the way they have here in this memo'
   24 A. Yes. There was never any communication ever on
          Creationism. And they had a behavior of equating both,
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Richard Nilsen 4/14/05 (Day 2)

correct, three of the districts -- or I am sorry --2 three of the schools and which biology books they were 4 Q. What was your role in 2004 in the work of the curriculum 5 committee's to select or recommend, rather, new 6 textbooks in the School District? 7 A. My role as Superintendent were to place the book that 8 Mr. Baksa as Director of Curriculum Instruction -- to 9 place his recommendation on the Board agenda. 10 Q. It sounds like your role is passive. You simply take whatever Baksa gives you and put it on the agenda without making any judgments about whether it is an appropriate recommendation; am I right about that? 14 A. Passive to the extent of where Mr. Baksa in his capacity 15 makes the recommendation. In this case and in most 16 cases, his recommendation has been put on where I have 17 not questioned his recommendation beyond the fact that 18 did he follow procedure. And when he communicated to me 19 he did, it was placed on the agenda. 20 Q. Mr. Bakes described some of the work that he did with 21 the controllers committees in the summer of 2004. 1 22 believe from his testimous that this inquiry to the 23 parochial schools followed a June meeting of the School District Board when the biology textbook issue was 25 discussed

00010 Were you at that School Board meeting? 2 A. Yes. 3 Q. Do you recall the discussion about biology textispolar in the high school? 5 A. I remember the discussion, the specifics. I am not sure 6 I remember all of them. 7 Q. What do you remember of the discussion? A. I seemable that Mr. Backingham had agree concerns about
 the excitook and was interested in looking at other. 11 Q. What an you recall he said about his concerns about the 12 texts pok7 A. I believe he communicated his dissatisfaction with how an expensive control of the dissatisfaction with how the Disvinian Theory of Evolution was presented in the charge of the control of the charge of th 15 16 Q. Was his dissessinfaction with how the Durwinian Theory
17 was presented, or was his dissessinfaction with the aboute of any other theory being presented?

My only recollection is how the Darwisian Theory was 20 personnel 21 Q. What did he say about his dissussisfaction?
22 A. He documented — with again the documentation I believe 23 yes have of several consens should have credation was und in the book. Boyand that, I don't 24 1 recollect what was specifically stated and/or written.

Richard Nilsen 4/14/05 (Day 2)

Page 9

Richard Nilsen 4/14/05 (Day 2)

Page 10

 $\begin{array}{cc} 00011 \\ 1 & Q. \end{array}$ Did you make any notes yourself of the discussion of the 2 biology textbook at that June Board meeting? 3 A. No. 4 Q. Do you have a practice of making notes during Board 7 O What do you do with those notes? 8 A. All the notes I take are actions the Board has requested 9 me to do and/or any changes in future agenda items. 10 Once those items have been completed, those notes are 12 Q. Did you make notes of the discussion of the biology 15 Q. Did you have any conversation with Mr. Baksa after that 16 meeting about the actions that should follow in 17 connection with Mr. Buckingham's concerns or any other 18 discussion that happened at that June meeting? 19 A. Ycs. 20 Q. What was that discussion with Baksa? 21 A. My discussion with Mr. Baksa was he had to decide what 22 direction he was going to go with as it related to the 23 textbook and when the textbook decision was to be made. 24 Q. At that time, I mean at the time of your discussion with

25 Mr. Baksa, what did you think the directions were that

he needed to consider? 2 A. I think he needed to consider answering whatever concerns Mr. Buckingham and/or any other Board member had with the present recommended book Miller and Levin 5 Biology. 6 Q. I understand that. But what did you think his options were? You referred - and I am using the word options. You referred to he needed to decide what direction he was going to go in. That suggests to me that there were -- there was more than one direction available to What did you have in mind when you had that 13 conversation with him? 14 A. I don't recommend -- my apologies. I don't recollect the full conversation, but obviously, there would be two. One would be to continue the conversation on the 17 current book. Or two, look for other options that 18 possibly anybody and everybody would be satisfied with. 19 Q. Did you give him my suggestions for how to find out 20 more about other options than simply persisting with the 22 A. Again, I don't remember any specific. It would not be 23 out of character for me to tell him to call and make sure he has contacted every other district and everyone he knows of to see if there would have been another

00013 Now do I remember that specific conversation? No. Would it be out of my character? Again, no. 4 Q. Is it possible that in that conversation you suggested that he not only contact other public school districts but that he contact parochial schools in the area? 7 A. It is possible I told him to contact everybody and 8 anybody that he hadn't contacted before. 9 Q. When you first saw the memorandum reporting on his 10 contacts with parochial schools, what did you do with 13 Q. Did you talk to him about it? 14 A. Yes, but I don't remember the conversation. 15 Q. Were you surprised when you got the memorandum to see 16 that it only reported on contacts with parochial schools 17 and didn't provide any information about contacts with 18 other area schools? 19 A. No. 20 Q. lask why not? 21 A. Because I would have assumed he would have contacted the 22 other parochial schools beforehand. 23 Q. Did you mean most of the other public schools? 24 A. Yes, my apologies. 25 Q. Did you know that he actually did make those contacts?

1 A No, I don't know that as a fact.

2 Q. Did you suggest at any time to Mr. Baksa that he speak

3 with any of the families that are providing home

4 schooling in your district —

5 A. No.

6 Q. — to see what textbooks they used?

7 A. No.

8 Q. Did you make any inquiries on your own about alternative

9 biology textbooks? That is alternatives to Miller and

10 Levin.

11 A. No.

12 Q. What was done, if you know, with the information that

13 Mr. Baksa collected about the books being used in

14 parochial schools?

15 A. I do not know.

16 Q. Did you share the memorandum or that information with

21 A. I have no recollection of that either.
22 Q. I am trying to understand what happened when he

18 A. I have no recollection of that.

17 any Board member?

developed the information. You received the information, and the sense I have is that it landed on a

19 Q. Did you ask Mr. Baksa to share that information with any

25 piece of paper, and the piece of paper landed in a

Richard Nilsen 4/14/05 (Day 2)

Page 13

Richard Nilsen 4/14/05 (Day 2)

Page 14

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2 A. Well-
3 Q. I'm trying to figure out what use was made of that
4 information since somebody went to the trouble to
6 A. Well, I think that is a question that needs to be
 7 directed to Mr. Baksa being he generated information and
 8 it was his responsibility to research and make the
 9 recommendation on the textbook.
10 Q. Did you see at this time, which is after the June Board
11 meeting, that the selection of a biology textbook was
       not just the selection of another textbook but had
       become a matter of primary interest to the Board, at
 14 least in terms of its curriculum responsibilities?
 15 A. I am sorry. I don't understand the question.
 16 Q. It was a cumbersome question. Can you remember any
 17 other debate and discussion involving the teachers, the
 18 administration and the Board on a textbook selection
      that has the same characteristics as what you and the
      District have been through since last June on the
        selection of a biology textbook?
```

22 A. Yes.

23 Q. Which textbook was that?

24 A. The chemistry book the prior year and the family

25 consumer science books the prior year.

00015 1 drawer or in a file, and that no use was made of it. 00016
1 Q. What was the controversy involving the chemistry book? 2 A. The financial issue, as well as the issue of whether the 3 teachers needed the book or not. 4 Q. By financial, you mean the cost of the book? 5 A. The ability for the District to pay for a new book. 6 Q. I assume whether the teachers needed it or not was an aspect of that financial decision? 9 Q. And the other book was family consumer science? 10 A. That is correct. 11 Q. What was the controversy surrounding that? 12 A. The controversy surrounded whether it was an identical 13 replacement of the book that the faculty already had, and the issue of whether the Board could once again 15 finance a textbook that the teachers already had in 16 their possession. 17 Q. It strikes me that both of those controversies — and I will use that word in quotes - involved basically financial considerations, cost considerations. It appears to me that the discussions about the biology 20 Can you think of any other situation when a book 23 is being considered by the Board for inclusion in the 24 carriculum when there has been this kind of attention and controversy devoted to that subject?

Richard Nilsen 4/14/05 (Day 2)

1 A. I will clarify your question. The family cons 2 science book was content issue based on the fact that they thought the content was already in our curriculum and didn't see the reason to purchase another book that had the same content. 6 Q. Okay. 7 A. Not specifically along the same lines, but along the 8 same general conversation. The District gets a donation from the county on a book pamphlet that we give to our students that has a number of agencies listed in it, and 11 a Board member and a parent had a considerable concern 12 on the information that was in the book, specifically dealing with comments dealing with sexual education ar 13 issues concerning specific agencies that was in there. To the point of where we ended up sending home 15 information prior to the students receiving the books, 16 17 as well as a discussion of whether to even continue 18 handing out the individual books. And through my experience, not only in this district, but other districts, any time we have adopted 21 a health curriculum, there has always been conversations zeroing in on what is and what is not taught as it 22 23 relates to the curriculum Mr. Bousell and I had conversations and I believe 24 a third party, but nonetheless I believe Mr. Bonsell has

also talked to Mr. Baksa about the health curriculum in our education dealing with abstinence. I know Mr. Baksa is meeting next week, if not the 3 following week, with another Board member dealing with our drug and alcohol curriculum, specifically where 5 inhalants are being taught. If your question is does the Board hold discussions on multiple issues with content beyond this individual issue, my experience is yes. 10 Q. On those issues where the Board has either demonstrated 1) or expressed a keen interest in a decision like the 12 distribution of a pumphlet, or the selection of a textbook, is it your practice as Mr. Baksa's supervisor and as the Superintendent of Schools to basically say we have got to pay attention to this, get it right, be sure 15 that we do what we need to do to be giving all the information to the Board and do the best job we can? You don't treat it as a routine matter; do you? MR. GILLEN: I object to the form. 20 A. I think it is a routine matter. I think the routine matter of the Board's reviewing curriculum and making comments about curriculum is routine. Board members 22 historically have had conversations about what is in the 23 curriculum, and their recommendations on what should be in the curriculum, and what type of curriculum should be

Richard Nilsen 4/14/05 (Day 2)

Page 17

Richard Nilsen 4/14/05 (Day 2)

Page 18

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00019
1 placed in our planned courses. That is a routine
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3 BY MR. SCHMIDT:

4 Q. At the time of the June meeting in 2004, had you ever

5 heard of the notion of Intelligent Design?

6 A. Not that I can remember, no.

7 Q. Do you remember your first contact with the Discovery

8 Institute? And by you in this case, I am referring to

9 you personally.

10 A. Me personally, yes.

11 Q. When did that contact take place?

12 A. The fall of 2004.

13 Q. Where did the contact take place?

14 A. Over the phone.

15 Q. Who else was involved in the telephone contact?

16 A. No one eise.

17 Q. That wasn't meant to be a trick question. You were on

18 the phone. Who else was on the phone; somebody from the

19 Discovery institute?

20 A. Yes

21 Q. Do you remember who it was?

22 A. No, I don't

23 Q. Do you know someone named Seth Cooper?

24 A. Yes.

25 Q. There is a deposition exhibit that has previously been

00020
i marked as Plaintiff 38 which I would ask you to take a
look at?

3 A. (Witness complies.)

MR. GILLEN: Tom, I mentioned to Eric yesterday

5 that 40, I have a problem with in that I am not sure if

6 it wasn't inadvertently provided. I need to go back to

7 the office and check on that.

8 MR. SCHMIDT: Olay.

9 MR. GILLEN: Thank you.

10 BY MR. SCHMIDT:

11 Q. Dr. Nilsen, have you seen this document before today?

12 A. I have reviewed over 2,000 documents. Does this jump

13 out at me? No. Would I have reviewed it before? I

14 believe s

15 Q. Do you recall seeing this e-mail at about the time it

16 was sent in June of 2004?

17 A. Not to my recollection, no

18 Q. Were you aware in June of 2004 that Seth Cooper or

19 anyone from the Discovery Institute was reaching out and

20 trying to contact Mr. Bonsell?

21 A. Not to my recollection, no.

22 Q. If you would, look at the e-mail address at the top of

23 Plaintiffs 38. Is the e-mail address for Mr. Bousell

24 one that is provided by the School District?

25 A. Yes.

00049
1 that teachers were not to teach Intelligent Design? 1 O. The sentence reads the School Board has noted that there 2 are opinions other than Darwin's on the origin of 2 A. I am sorry. I don't understand that. 3 Q. Okay. Why weren't the teachers to teach intelligent Do you know what Darwin's opinions on the origin 4 Design? of life are? 5 A. Based on the fact that it is not one of the standards. 6 Q. My reading of the curriculum documents tells me that the 7 Q. Did you make any inquiry about what the Board had in 7 amount of time devoted to Evolution is 19 days? 8 mind when it said there are other opinious? 8 A. No. 9 A. No. But my context was some Board members differed with 9 Q. How much time is devoted to Evolution? 10 A. One to two days.

11 Q. What is the origin of life depair that is referred to in 10 Darwin's concept of origins of life and communicated 11 mch publiciv. 12 Q. Why did you capitalize origin of life in these 12 the next sources of Richita 9-17.

13 A The origins of life deline is the origin of the creation 14 A. I have no idea. 14 or beginning, the genesis, if you would, not using 15 Q. Are you aware of any opinions other than Darwin's es, but the beginning part of man. 15 Bibli 16 opinion on the origin of life, whatever that may be? 16 Q. **Q(mass** 17 A. Yas. 17 A. 18 Q. What are the other opinions that you are aware of? 18 Q. What is Darwin's opinion about the origin of life as you 19 A. There is the opinion -- and I have no idea how to spell 19 understand it? I am now looking at the next sentence. 20 it - Plantaria, whatever it is, where there are aliens 20 A. I don't know. 21 that have come in some capacity. The whole conversation 21 O. What did you mean when you put that sentence in the dealing with the pyramids and the structure that the 23 earth was created by an outside force, whatever that --23 A. The Board believes that there are other options and 24 either alien as defined as an entity beyond homo supiens 24 discussions on Darwin's opinion on the origins of life, on carth. 25 and I have communicated that Page 50 Richard Nilsen 4/14/05 (Day 2) Richard Nilsen 4/14/05 (Day 2) Page 49 00051 1 Q. Was it the plan to stick -There is the Big Bang Theory of where the 2 beginning of time was created out of an explosion in 3 Q. Paragraph five on page two of the document includes a some capacity. And there is also the conversation that ment that there will be no other discussion of the there is a Godlike entity that created earth and issue and your teachers will not answer any questions on everything on it. MR. SCHMIDT: Off the record, please. What is this issue that is referred to in that (An off-the-record discussion was had.)

(Plaintiffs Exhibit 43 was marked.) 9 BY MR. SCHMIDT: 10 Q. Dr. Nilsen, have you had an opportunity to review 11 Plaintiffs Exhibit 43? 12 A. Yes, I have. 13 Q. Identify the document, please. 14 A. The document is Administrator's Biology Statement in 15 Biology Class. 16 Q. Bates numbered 10991100. Do you know who prepared this 17 document? 19 O. Who? 20 A. I did. 21 Q. What use was made of the document? 22 A. The document was read in total by either myself or Mr. 23 Baksa 24 Q. Verbatim? 25 A. 99.9 percent

9 A. The issue of Intelligent Design. 10 Q. When you prepared what has been marked as P-43, what was 11 your understanding of the difference between the 12 Intelligent Design explanation of the origin of life and 13 Darwin's explanation of the origin of life? 14 A. When I prepared the document? 15 O. Right. 16 A. At that time, I don't think I had an understanding. 17 Q. Do you recall when you prepared the document? 18 A. Yes. 19 O. When? 20 A. It would have been in mid January. 21 Q. Do you have an understanding now? 22 A. I have somewhat of an understanding. I don't think I 23 have a total understanding. 24 Q. I can't ask for perfection, but what is your present 25 anderstanding?

Intelligent Design refers to an order. Darwin refers to 2 randoumess 3 Q. And how do those two notions that you have just stated 4 have to do with the origin of life? 5 A As it relates to Darwin, there could be a randomness 1 think his theory is survival of the fittest. And intelligent Design has a specific design to it, not a 9 Q. I think I look that from the order versus random. But 10 what do those two notions have to do with what you have 11 used the phrase and it is used in this document the 12 origin of life, do you have any understanding of the 13 relationship between the two concepts you have referred 14 to and the origin of life? 15 A. Not beyond what I have said, no. 16 Q. You have been an educator for going on 20 years? 17 A Twenty-nine.
18 Q Twenty-nine years. Can you recall any instance in your
19 career as an educator when students have been directed that they are not to discuss topics, and teachers are not permitted to comment on topics with students? MR. GILLEN: Object to the form. 21 A Ves 24 BY MR. SCHMIDT: 25 Q. Can you give me another circumstance besides this one?

A. Political affiliation, sexual education, issues within 2 the community that are highly politically charged. 3 Q. And religion? 4 A. And religion. 5 Q. Did any parents or students ever contact you after the 7 A Not that I remember, no. 8 Q. I am going to show you a document that has been marked previously as Plaintiffs 9. Have you had an opportunity to look at Exhibit P-97 11 A. Look at it. Read it in total, no. 12 Q. Let me ask you some questions. If you need to review it in any detail, just let me know. This is a document 14 that contains Bates numbered pages 944 through 951. Let 15 me ask you to turn first to page 946. 16 A. (Whites complies.) 17 Q. Do you recognize this document? 19 Q. Is this the Biology One Carriculum that was in place 20 before October 18th, 2004? 21 A. To the best of my shility, yes. 22 Q. I need your help to understand it. As I read this ent, it suggested to me that there were 19 days out 24 of the biology carriculum devoted to natural selection,

25 the mechanism of Evolution and the origins of bio

Richard Nilsen 4/14/05 (Day 2) Page 53

Richard Nilsen 4/14/05 (Day 2)

Page 54

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00055 diversity. Have I read the top line correctly?
  2 A. That's correct.
  3 Q. And it appears, for instance, that the references to
        Darwin, Durwin's Theory of the origin of species and
             es involving Evolution are spread throughout this 19
  7 A. That is what is written here, correct.
  8 Q. As I understood your testimony a few stoments ago, it was
         the Theory of Evolution was limited to two days in the
         biology carriculum. Did I mishear your testimony?
  11 A. You did not.
 12 Q. Can you explain why you say two days and this appears to
 13 Say 197
  14 A. The ugliness that every Superintendent and Assistant
        Superintendent has is the fact that teachers teach not
         solely the outline of the planned instruction. This
         obviously is the case.
  17
  18 Decrease when saking the specific teachers how many
19 days hery spent on the theory, they said two. So I am
         following what they have told us is the reality versus
```

what is in the planned course. Meaning this docume

obviously the instructional guide, but not what is in

24 OC: As Superintendent, are you concerned that the guide's

25 call for 19 days of instruction and your teachers are

21

22

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selling you they are only devoting two?
4 planted course is misdone or the instruction is misd
5 I can't speak to that. But obviously, both should be
7 Q Back to place 944, have you seen this memorandum before
8 today, the semantament than Today Possessor to Mr. Baksa.
      Mr. Endding and Mrs. Spahr dated April 1, 2003?
10 A. Yes.
11 Q. Fam assuming you saw it in the course of preparing
12 documents for discovery in this case, but did you see it
13 about the time it was issued?
14 A. I have no recollection of that except to say that it is
15 carbon capital to man, and a would proper within my
16 responsible to the proper bound have come across it.
17 Q. which you have read it?
18 A.*** Yes.
19 Q. Do you recall doing anything in response to or following
20 receipt of this memorandism?
22 Q. You don't recall any discussions with Mr. Baksa or Mrs.
23 Spair about it?
24 A. No. Let me rephrase that. About this specific memo
25 with Mr. Baksa?
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Richard Nilsen 4/14/05 (Day 2)

the other point based on the fact that I have not an 2 understanding of what Dr. Peterman did and what Mr. 2 Q. Why soft 3 A Topped To See See 3 Baksa did with the individual teacher. 4 Q. Did you ask Dr. Peterman what she did in her supervision crystage is the contention of teachers. Those 5 of Mrs. Spahr about this subject? ideal responsibilisies of the building 6 A. No. not this subject, no. 7 Q. Is it your position as the Superintendent that when mely, this conversational capacity would somebody that you are evaluating repeats the statement call up from browners the conversation of Mr. Bahra, Dr. of another person, if that statement turns out to be untrue, that the person you supervise bears the 11 Q. 1 m. 12 A. Mooning of Service announcing Mr. Dalax, it would be fall following monthly or communicate to Dr. 14 m. responsibility for that untrath? Let me withdraw the question. It's too big. 1 12 13 have already got your answer on it. I understand what 15 MR GILLEN: Thank you, Tom. 15 Q. Do you know whether he did that or not? 16 BY MR. SCHMIDT: 16 A. No. I do not know that. 17 Q. Did you have any further discussion with Mr. Baksa about 17 Q. As I understand what happened in response to the two 18 the subject of his reported conversation with Mrs. Spahr 18 sentences that appear at the beginning of - 1 am sorry 19 on the topics that are addressed in this memorandum? 19 - three sentences that appear at the beginning of this 20 exhibit, Dr. Peterman is disciplined for having made a 21 Q. When did you have that conversation with him? 21 statement that she heard from Mrs. Spahr, but Mrs. Spahr 22 A. Over the past year. is not disciplined for having made the original 23 Q. Did you have a conversation with him around the time statement which you and Mr. Baksa think is untrue? 24 that this memorandum was issued in April of '03? MR. GILLEN: Object to the form. 25 A. In a general sense, yes. As it relates to specifics, 25 A. I can speak to the first which is yes. I can't speak to

Richard Nilsen 4/14/05 (Day 2)

Page 61

Richard Nüsen 4/14/05 (Day 2)

Page 62

2 Q. How did you reach the determination to give Dr. Peterman 3 a bad evaluation because of what appears in this first 4 naragraph without doing an investigation --MR. GILLEN: Object to the form. 6 BY MR. SCHMIDT: 7 O. - with Mr. Baksa? MR. GILLEN: 1 am sorry. MR. SCHMIDT: That is all right. I paused. 10 A. The evaluation was not solely based on this individual 11 action. It was significantly broader obviously than 12 this. And the behavior reflected not solely the information, but the process of the information. 14 BY MR. SCHMIDT: 15 O. Did you ever instruct Dr. Peterman about how she was to 16 behave or interact with the Board at Board meetings? 18 Q. What instructions did you give her? 19 A. The Board directed me to direct to her that when she came to Board meetings, that she like every other 21 individual was to be recognized prior to coming to the 22 podium, was to direct her comments to the Board and not

She was also not to raise her voice. She was also

25 not to pound the podium. And she was to be or point,

2 Q. Did you give her those directions in writing? 3 A. Yas. 4 O. Is that the current state of her instructions with 5 respect to Board meetings? 6 A. She is no longer employed. 7 Q. Was she fired? 8 A. No. She has since gone to another district where she is 9 in litigation with the Superintendent because the 10 Superintendent put her on leave, as the prior district 11 also put her on leave. So out of three districts, two 12 out of the three, she was put on leave for behavior 13 unbecoming to an administrator. 14 Q. I would like to show you a document that has previously 15 been marked as Plaintiffs 28. I just have a quick question or two about this. Dr. Nilsen, at least initially, you can probably 17 answer my question by looking at the first page. If someone else has already asked this, I apologize to you. But is this your handwriting on this document? 22 Q. Do you know whose it is? 23 A. Without certainty. But it does look like Mr. Baksa's. 24 It is nester than mine. MR. GILLEN: Off the record.

Richard Nilsen 4/14/05 (Day 2

1 A. Least speak for the Board except to say that co activistic stand against what the Supreme Court had is a reflection of what the teachest said they were 2 already done. There was a conversation we had about what was currently being discussed in the national Open, Districts to past of wheel are public but paper, as well as what impact the Board - I am sorry unt is a reflection of what the teachers up what impact the Supreme Court had directly on schools. 6 Q. Okay. Let me just go back to explain one line of Crising of Making and temptr. testimony you gave earlier this morning. I had asked 8 Q. Teachers may write not teaching origins of life; is that 8 you a couple of questions about the origin of life debate and what your understanding is of origin of life. 10 A. Yes As I reflect back on your testimony, I am not sure 11 Q. And the dependence on an and techniques.
12 Manager of the property of the party of the pa 11 I understand what you mean when you refer in the 12 documents you have written and what you are understanding is about the policy of the Board when it 13 14 Q. es by m De Rig Blaz Theory, the jumping from species to species public of Department Theory. 15 A. If you will bear with me for a minute, could you 16 explain it again? 17 Q. And it is your audit treating as the Superintendent of 17 A. My apologies, but I think you asked three different be the party and the same and 18 del at arrived conjustem, it was 19 19 Q. I am sure I did. That is the topic. If you would not that understanding of what the teachers were 20 21 21 22 A. 22 A. The beginning of marking. 23 Q is a type in referencing that the is upon the Board

24 mean while is included that term is in revised biology. MR. SCHMIDT: All right. That is all I have. 23 24 Thank you. I appreciate your staying through lunch to get this completed.

Richard Nilsen 4/14/05 (Day 2)

Page 93

Page 95

Richard Nilsen 4/14/05 (Day 2)

Page 94

MR. GILLEN: I just have a few questions, Tom. 2 BY MR. GILLEN: 3. O. Mr. Schmidt asked you a few questions. One set of them 4 related to Plaintiffs Deposition Exhibit 9 which is that memo from Dr. Peterman. Tom asked you did you take action in light of that, and you said no. Just to be clear on this point, at the time that you received this memo, did Dr. Peterman have a lot of credibility with you? 11 Q. Was it in large measure because this memo came from Dr. 12 Peterman which explained your inaction? 13 A. Two things. One, first of all, I knew no one was discussing either from the administrative standpoint, or the Board standpoint, or Mr. Baksa's standpoint, or my standpoint any discussion of Creationism. So a memo 17 that generated and stated that there was a discussion of 18 Creationism had absolutely a non starter. 19 Secondly, as it related to Dr. Peterman, I didn't believe anything she put in writing anyway. In fact, 20 one of the prior evaluations I had with her was to stop putting things in writing because she would put things 22 23 in writing prior to knowing what actually was the reality. And I had to spend time with her going back and correcting what was on the record.

She had a long history of putting things in writing that were inaccurate that we had to go back and She had dictated to the faculty that she no longer rould talk to any facalty members, and that the only way she would communicate with faculty members is through Department Chairs. And the only way that Department Chairs could talk to her is if they requested a m And then in the middle of that year '03-'04, she communicated the Department Chair, she would no longer talk to them. So she generated information that was 11 13 So her credibility with me in any written format was absolutely nonexistent. And eventually, it was reflected in the end of the year evalua-16 Q. Tom also directed your attention to Plaintiff Exhibit 17 48. When I looked at it here today, I noticed that it said any future communication pertaining to Creationism/Intelligent Design intended for the Science 19 Department shall be in written form. 21 Is it accurate that the teachers when they 22 discussed Intelligent Design equated it with Creation 24 A. Yes. There was never any communication ever on 25 Creationism. And they had a behavior of equating both,

Richard Nilsen 4/14/05 (Day 2)